

APR 07 2005

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

IN THE MATTER OF THE DENIAL OF )	FINDINGS OF FACT,
APPLICATION FOR LICENSE FOR )	CONCLUSIONS OF LAW, AND
JEFFREY J. WHITAKER )	RECOMMENDED ORDER
)	AND ORDER
)	
)	CAUSE NO. A-1613
)	

This matter came on for hearing on the 31<sup>st</sup> day of March, 2005, before Christine Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The matter arises out of a denial of an application for a resident insurance producer license. The Department of Insurance ("Department") was represented by its attorney, Janette Adair. Jeffrey J. Whitaker ("Applicant") was present and was not represented by counsel. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Applicant and the Department presented evidence and testimony at the hearing and the matter was taken under advisement. The hearing officer hereby makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
2. On or about February 17, 2005, Applicant applied for a resident insurance producer license as evidenced by Exhibit 1. Applicant did not report on his application form a previous administrative action in Cause No.: A-1565, *State of Nebraska Department of*

*Insurance v. Jeffrey J. Whitaker* which resulted in the revocation of his insurance producer license for failing to comply with the requirements of *Neb. Rev. Stat. §44-19,116*. During that proceeding, Applicant's notice of the petition and hearing were returned to the Department marked "Unclaimed." Applicant did not appear at the hearing.

3. Applicant became aware of the revocation on or about February 18, 2005, when he received notice from the Department's Licensing Division Administrator that reinstatement of the license was denied based on *Neb. Rev. Stat. §44-4059(1)(b)* and *§44-4059 (1)(i)*, as evidenced by Exhibit 2.

4. On or about March 4, 2005, Applicant requested a hearing to appeal the Department's denial for an insurance producer's license. (Ex. 3).

5. Applicant is currently President of Title Services, Inc., 1503 South 55<sup>th</sup> Street, Omaha, NE 68106. He testified that he thought that he let his license lapse when he was working in a different field, but recently decided to return to title insurance. Applicant was unaware of the Department's action in Cause No.: A-1565 because he did not receive notice of the certified letter.

6. Applicant also claimed not to have received a letter from the Department dated April 9, 2004, which was submitted in the previous administrative action as Exhibit 2 of Cause Number A-1565, informing him to report to the Department by April 30, 2004, if he was exempt from the audit requirements. Because this correspondence was mailed by U.S. Mail, postage prepaid, to the correct address, as verified by Applicant, and not returned to the Department, the hearing officer finds Applicant received this correspondence and failed to respond by the deadline.

7. Applicant testified that his business is to provide title search information for other title insurance agents who then issue commitments based on the work that he has performed. At no time has Applicant held escrow funds. The hearing officer finds Applicant was not subject to the audit requirements of *Neb. Rev. Stat.* §44-19,116.

8. The granting of a license by the Department is based upon the truth and veracity of the facts disclosed in the application, the testimony given and the evidence introduced into the record at the hearing.

#### CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control and discretion over the licensing of insurance producers to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §44-101.01 and §44-4047 et seq.

2. The Department has personal jurisdiction over Applicant.

3. The revocation of Applicant's non-resident insurance producer license constitutes sufficient basis to deny reinstatement to Applicant pursuant to Neb. Rev. Stat. §44-4059(1).

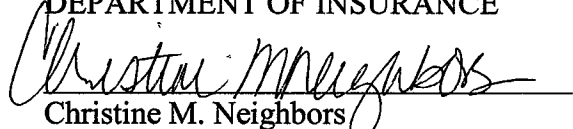
#### RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended to the Director of Insurance that the Director approve Applicant's request for licensing as a resident insurance producer provided that prior to licensing, Applicant pay an administrative fine of \$750. Of the \$750 administrative fine, \$500 is assessed under the authority of *Neb. Rev. Stat.* §44-4059 (4), wherein the Department may, in lieu of the applicable denial of license, subject Applicant, after notice and hearing, to an administrative fine of not more than \$1,000. The remaining \$250 administrative fine is assessed based on Applicant's failure to respond to the

Department's April 9, 2004 correspondence. Upon payment of the fine and completion of any outstanding licensing requirements, the Department shall issue a license to Jeffrey J. Whitaker.

Dated this 5<sup>th</sup> day of April, 2005.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE


  
Christine M. Neighbors  
HEARING OFFICER

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of the Department In The Matter of the Denial of Application For License For Jeffrey J. Whitaker, Cause No.: A-1613.

Dated this 7<sup>th</sup> day of April, 2005.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

  
L. TIM WAGNER  
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Applicant by mailing a copy to Jeffrey J. Whitaker, Title Services, Inc., 1503 South 55<sup>th</sup> Street, Omaha, NE 68106, by certified mail, return receipt requested, on this 8<sup>th</sup> day of April, 2005.

